

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF REVENUE
DIVISION OF LOCAL SERVICES

Property Tax Bureau
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PROPERTY TAX EXEMPTIONS TO PROMOTE ECONOMIC DEVELOPMENT

Chapter 19, SS. 4, 12 and 14 and Chapter 110, S. 104 of the Acts of 1993
(Adding G.L. Ch. 23A, S. 3E, Ch. 40, S. 59 and Ch. 59, S. 5 CL. 51)

SUMMARY:

This legislation establishes two new local property tax exemptions intended to function as incentives for economic development. A municipality may grant either exemption to a business in conjunction with a comprehensive plan for the development of economically distressed areas proposed by the community and approved by the newly created Economic Assistance Coordinating Council (EACC). Economically distressed areas are referred to in the legislation as economic target areas (ETAS); those parts of an ETA that are suitable for commercial or industrial development can be designated as economic opportunity areas (EOAs). Real estate projects within an EOA are eligible for the exemptions, but only one of the exemptions can be granted to any particular parcel.

The first type of exemption authorized is called a special tax assessment and is contained in General Laws Ch. 23A §3E. It provides a four-year declining exemption equal to 100% of a parcel's value in the first year, 75% of its value in the second year, 50% in the third year and 25% in the fourth and final year.

The statutory framework for the other new exemption the so-called tax increment financing or TIF exemption is set out in G.L. Ch. 59 §5 Clause 51 and in G.L. Ch. 40 §59. The TIF exemption is an exemption of a percentage of the increase in a parcel's value over its base value in the year before the exemption was granted. The exemption can last for up to twenty years, and the percentage of the increased value that will be exempt can be up to 100%. Both the duration of the exemption and the percentage of increased value that will be exempt are fixed by the municipal vote that adopts the TIF plan. There is an adjustment to a parcel's base value to insure that the exemption applies only to increases in a parcel's value that exceed the ordinary inflationary increases in the value of other commercial and industrial property in the community. TIF exemptions may be authorized for parcels in TIF zones within an EOA or within an area designated by the Secretary of Economic Affairs as presenting exceptional opportunities for increased economic development. Personal property situated on a parcel receiving a TIF exemption will also be exempt. Communities may also grant parcels receiving TIF exemptions whole or partial exemptions from betterments or special assessments.

Detailed regulations have been issued by the Executive Office of Communities and Development (EOCD) (751 Code of Massachusetts Regulations (CMR) 11.00) and the EACC (402 CMR

2.00) governing the application process for the designation of ETAs and EOAS, and for the approval of real estate projects eligible for either of the new exemptions.

GUIDELINES:

A. Adoption of Exemption

1. Adoption Procedure

The new exemptions must be adopted by a vote of the town meeting, town council or city council with the mayor's approval where required. As noted above, no parcel can receive both the special tax assessment and the TIF exemption. Therefore, the vote must specify which exemption will be applicable for each parcel.

In the case of the TIF exemption, the vote must identify each parcel that will be receiving the exemption, specify how long the exemption will last, which cannot be more than twenty years, and specify an exemption percentage for each year that the exemption will be in effect, which cannot be greater than 100%.

The vote that provides for TIF exemptions may also establish a maximum percentage of the cost of public improvements constructed in conjunction with the development of the TIF zone that may be recovered from TIF eligible parcels through betterments and special assessments. These public improvements must be incorporated in the plan for the development of the TIF zone.

2. Tax Agreement

The owner of each parcel that will receive a TIF exemption must enter into an agreement with the city or town setting out the terms of the TIF exemption applicable to the parcel, and the responsibilities and undertakings of the parties with respect to the development and use of the parcel. The agreement must also contain a provision that it will be binding upon subsequent owners of the property.

3. TIF Zone Revocation

A municipality may revoke the designation of an area as a TIF zone at any time. After a revocation, no additional TIF exemptions may be granted in the TIF zone, but the extent and duration of existing TIF exemptions will be unaffected by the revocation of the TIF zone.

B. Exemption Administration

1. Real Estate Valuation and Assessment

For both the special tax assessment and the TIF exemption, the tax committed should be based upon the value of the parcel after allowing for the exemption, rather than upon the parcel's full and fair cash value. This means that there should not ordinarily be an abatement or charge against the overlay account because of these exemptions. It also means that the value after exemption will be used in calculating the levy class percentages under G.L. Ch. 40 §56 and the minimum residential factor under G.L. Ch. 58 §1A.

2. Personal Property Exemption

Personal property situated at a parcel receiving a TIF exemption is entirely exempt. The exemption does not depend on the nature of the personalty's owner, whether it be an individual, partnership, domestic business corporation, manufacturing corporation, etc.

3. Ownership Changes

A change in the ownership of a parcel receiving a TIF exemption will not disqualify the parcel from receiving the exemption.

4. Abatements

Abatements for overvaluation are subject to the same deadlines and governed by the same rules that apply to other parcels.

5. Recordkeeping

The Board of Assessors should maintain a copy of the vote establishing the TIF or special tax assessment exemptions and in the case of TIF exemptions a table of the inflation factors and exemption percentages for each fiscal year that the TIF exemption has been in effect.

C. Calculation of the Exemption

1. Special Assessment

The calculation of the special tax assessment is straightforward. The assessors simply determine the full and fair cash value of the parcel in accordance with normal assessment standards, and then reduce the value by 100%, 75%, 50% or 25%, depending on whether the parcel is in its first, second, third or fourth year of eligibility.

2. Tax Increment Financing

The calculation for the TIF exemption is more complex. The assessors start with a base value for the parcel, which is its assessed valuation in the last fiscal year before the parcel became eligible for the TIF exemption. This base value is then multiplied by an adjustment factor, which is the product of the inflation factors for all the years the TIF exemption has been in effect for the parcel.

Each year's inflation factor is a fraction. The numerator of the fraction is the current fiscal year's total assessed value of all commercial and industrial parcels in the municipality that are being assessed at full and fair cash value (that is, TIF parcels are not included in the numerator), minus the part of that year's Proposition 2½ tax base growth adjustment that is attributable to commercial and industrial real estate. The denominator of the fraction is the prior fiscal year's assessed value of the parcels that were included in the numerator. If the fraction is less than one, then the inflation factor for that fiscal year is one.

After the base value of the property its assessed value in the last fiscal year before the TIF exemption became effective is multiplied by the inflation factors for all the years of the exemption up to and including the current fiscal year, the result of that calculation is subtracted from the current year's full and fair cash value. That difference is then multiplied by the TIF exemption percentage for that fiscal year to arrive at the amount of the exemption for the current fiscal year.

The assessed value should be the full and fair cash value minus the exemption amount; if the exemption percentage is 100%, the assessed value will simply be the base value multiplied by all the inflation factors.

EXAMPLE

In FY95 a parcel's assessed value is \$100,000. A TIF plan is adopted by the municipality granting the parcel a 50% TIF exemption for twenty years, starting in FY96. In FY96, there are 10 non-TIF eligible parcels of commercial and industrial land in the community with a total valuation of \$11,000,000. In FY95 those same 10 parcels had a total valuation of \$10,000,000. In FY96 the community has a \$800,000 tax base growth increase in its levy limit approved in accordance with G.L. Ch. 59 §21C(f); \$500,000 of the new growth is attributable to the commercial and industrial classes. The inflation factor for FY96 is therefore:

$$\frac{\$11,000,000 \text{ (FY96 value)} - \$500,000 \text{ (FY96 com./ind. new growth)}}{\$10,000,000 \text{ (FY95 value of parcels included in the numerator)}}$$

or
$$\frac{\$10,500,000}{\$10,000,000} = 1.05 \text{ FY96 inflation factor}$$

A small manufacturing plant is built on the TIF parcel, increasing its market value for FY96 to \$2,000,000. Its assessed value for FY96, after allowing for the TIF exemption, is determined as follows:

(\$2,000,000	-	\$100,000	X	1.05)	X	5	=	\$947,500
FY96 market value		base value		FY96 inflation factor		exemption %		FY96 exemption amount

The FY96 **assessed value** is \$2,000,000 - \$947,500 = \$1,052,500.

For FY97, the market value of the TIF parcel has risen to \$2,100,000, and the inflation factor for FY97 is 1.04. Its FY97 assessed valuation is:

(\$2,000,000	-	\$100,000	X	1.05	X	1.04)	X	5	=	\$995,400.
FY97 market		base		FY96	FY97		exemption			FY96

value	value	inflation factor	%	exemption amount
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The FY97 **assessed value** is \$2,100,000 - \$995,400 = \$1,104,600.

D. Calculation of Tax Base Growth

Increases in the value of a parcel receiving a special tax assessment or TIF exemption during the exemption period will be treated as tax base growth for the levy limit calculation under G.L. Ch. 59 §21C(f) in the year or years when the increased value first becomes taxable.

Specific instructions for calculating and reporting growth for parcels receiving these exemptions will be included in future guidelines on tax base growth.

The Division of Local Services is responsible for oversight of and assistance to cities and towns in achieving equitable property taxation and efficient fiscal management.

The Division regularly publishes IGRs (informational Guideline Releases detailing legal and administrative procedures) and the BULLETIN (announcements and useful information) for local officials and others interested in municipal finance.

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